

A citizens guide to the class environmental assessment process

The Environmental Assessment (EA) process is a planning tool used to identify the possible adverse effects of proposed infrastructure projects on the environment. The Ontario Environmental Assessment Act requires Ontario municipalities to complete an EA when undertaking capital works projects. Municipalities in Ontario have the benefit of using the *Municipal Engineers Association's Class EA* process for certain municipal road, water and wastewater projects.

By eliminating or reducing effects on the environment, the municipality can avoid expensive, and sometimes controversial, remedial action once the project has been completed. Over the long term, environmental assessment provides decision makers with the kind of information they need to approve projects that are suitable with a healthy, sustainable environment for both present and future generations.



Hamilton

Public Works

This guide has been prepared to give citizen's a general understanding of the environmental assessment approvals process that the City of Hamilton must follow in undertaking road, water, and wastewater projects.

ONTARIO ENVIRONMENTAL ASSESSMENT ACT

The purpose of the Ontario Environmental Assessment Act (EA Act) is to provide for:

"...the betterment of the people of the whole or any part of Ontario by providing for the protection, conservation and wise management in Ontario of the environment."

"Environment" is applied in a broad sense and includes the natural, social, cultural, built and economic environments. It is defined in the EA Act as:

- *air, land or water;*
- *plant and animal life, including human life;*
- *the social, economic and cultural conditions that influence the life of humans, or a community;*
- *any building, structure, machine or other device or thing made by humans;*
- *any solid, liquid, gas, odour, heat, sound, vibration or radiation resulting directly or indirectly from human activities; or,*
- *any part or combination of the foregoing and the interrelationships between any two or more of them.*

There are two types of environmental assessment planning and approval processes.

Individual Environmental Assessments are those projects for which a Terms of Reference (TOR) and an individual environmental assessment are carried out and submitted to the Minister of the Environment for review and approval. The process typically used by municipalities, including the City of Hamilton, is the Class Environmental Assessment. This process is used for projects that are approved subject to compliance with an approved class environmental assessment process with respect to a class of undertakings, such as roads, water, and wastewater.

The key principles of successful environmental assessment planning include:

- Consultation with affected parties early in and throughout the process, such that the planning process is a co-operative venture.
- Consideration of a reasonable range of alternatives, both the functionally different "alternatives to" and the "alternative methods" of implementing the solution.
- Identification and consideration of the effects of each alternative on all aspects of the environment.

- Systematic evaluation of alternatives in terms of their advantages and disadvantages, to determine their net environmental effects.
- Provision of clear and complete documentation of the planning process followed, to allow "traceability" of decision-making with respect to the project.

CLASS EA'S

These projects are broken down into three schedules:

Schedule A projects are limited in scale, have minimal adverse environmental effects and include a number of municipal maintenance and operational activities. These projects are pre-approved and may proceed to implementation without following the full Class EA planning process. These projects generally include normal or emergency operational and maintenance activities.

Schedule B projects have the potential for some adverse environmental effects. The proponent (municipality) is required to undertake a screening process, involving mandatory contact with directly affected public and relevant review agencies, to ensure that they are aware of the project and that their concerns are addressed. If there are no outstanding concerns, then the proponent may proceed to implementation. These projects generally include improvements and minor expansions to existing facilities.

Schedule C projects have the potential for significant environmental effects and must proceed under the full planning and documentation procedures specified in the Class EA document. These projects require that an Environmental Study Report (ESR) be prepared and filed for review by the public and review agencies. These projects generally include the construction of new facilities and major expansions to existing facilities.

CLASS EA PLANNING PROCESS

There are five phases in the process:

Phase 1 Identify the problem (deficiency) or opportunity.

Phase 2 Identify alternative solutions.

Phase 3 Examine alternative design concepts for the preferred solution.

Phase 4 Prepare Environmental Study Report (ESR).

Phase 5 Implementation (contract drawings and documents, construction and operation).

Schedule A Projects only require completion of **Phase 1**.

Schedule B Projects must complete **Phase 1-2**.

PUBLIC CONSULTATION

Consultation early in and throughout the process is a key component of environmental assessment planning. While the Class EA establishes minimum requirements only, most proponents develop public consultation plans that exceed the minimum.

Most public consultation plans include:

Notice of Study Commencement that indicates that a study has been initiated and that there will be an Open House to identify the problem/opportunity and review the process.

Notice of Public Consultation Centre, for Schedule C projects only, is held to review the alternative designs and the possible impacts of the designs on the environment to assist in the selection of the preferred design for the chosen solution.

Notice of Completion occurs at the end of Phase 2 for Schedule B projects and the end of Phase 4 for Schedule C projects. This notice shall clearly state the review period of the ESR (minimum 30 calendar days) on public records and the date by which submissions or requests for an order are to be received.

For all **Schedules** of projects, public consultations for **Phases 1 and 5** are optional but recommended.

PART II ORDER

Under the provisions of subsection 16 of the EA Act, there is an opportunity for the Minister of the Environment to review the status of a project. Members of the public, interest groups and review agencies may request the Minister to require a proponent to comply with Part II of the EA Act (which addresses individual EA's), before proceeding with a proposed undertaking. The Minister determines whether or not this is necessary with the Minister's decision being final.

PROCEDURE TO REQUEST A PART II ORDER

The procedure for dealing with concerns, which may result in the Minister by order requiring a proponent to comply with Part II of the EA Act, is outlined as follows:

- 1) For **Schedule B** projects, a person or party with a concern should bring it to the attention of the proponent in Phase 2 of the planning process.

For **Schedule C** projects, a person or party with a concern should bring it to the attention of the proponent at any point during Phase 2 through Phase 4 of the planning process.

- 2) If a concern is not resolved through discussions with a proponent, the person or party raising the objection may request the proponent to voluntarily:
 - elevate a Schedule B project to Schedule C
 - elevate a Schedule B or Schedule C project to an individual environmental assessment.
- 3) If the proponent declines, and the person or party with the concern wishes to pursue the matter, they may write to the Minister of the Environment and request a Part II Order. These requests shall be copied by the requester to the proponent at the same time that they are submitted to the Minister.

A written request must be submitted to the Minister within the 30 calendar day review period after the Notice of Completion (of the ESR) has been issued.

Requests made or received after the 30 calendar day review period will not be considered.

- 4) The EAA Branch has 45 days to review the information and prepare a report for the Minister's consideration. The 45 day period commences after the 30 day public review lapses.

RESPONSIBILITY OF THE PUBLIC

Members of the public having concerns about the potential environmental effects of a project or the planning process being followed, have a responsibility to bring their concerns to the attention of the proponent early in the planning process, when the proponent has greater flexibility to accommodate changes in the project development and the process.

Requests for a Part II Order to the Minister must be in writing and must address the following issues as they relate to the identified concerns:

- environmental impacts of the project and their significance
- the adequacy of the planning process
- the availability of other alternatives to the project
- the adequacy of the public consultation program and the opportunities for public participation
- the involvement of the person or party in the planning of the project
- the nature of the specific concerns which remain unresolved
- details of any discussions held between the person or party and the proponent
- the benefits of requiring the proponent to undertake an individual environmental assessment
- any other important matters considered relevant

MINISTER'S DECISION

Upon receipt of a recommendation from the EAA Branch, the Minister shall consider the request and both sides of the argument, and make one of the following decisions within 21 calendar days of receipt of the EAA Branch's recommendation:

- 1) Deny, with or without conditions;
- 2) Refer the Matter to Mediation; or,
- 3) Part II Order.

In considering a request, the Minister shall give consideration to, but not limited to, the following issues:

- extent and nature of public concern
- potential for significant adverse environmental effects
- need for broader consideration of alternatives by the proponent
- considerations of urgency
- participation of the requester in the planning process
- nature of request
- degree to which public participation and dispute resolutions have taken place

FOR FURTHER INFORMATION

PLEASE CONTACT:

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Disclaimer: All information has been adopted from the Municipal Engineers Association Class Environmental Assessment document (June 2000). All information up to date at time of printing.